

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JANE DOE, a minor, by her parents and next
friends, JOHN DOE and JILL DOE,

Plaintiff,

v.

Case No.: 24-CV-354

ELKHORN AREA SCHOOL DISTRICT and
JASON TADLOCK, in his individual capacity.

Defendants.

**DEFENDANTS' RESPONSE TO PLAINTIFF'S NOTICE OF SUPPLEMENTAL
AUTHORITY**

Plaintiff has provided the Court with a notice of the Seventh Circuit's recent decision in *D.P. ex rel. A.B. v. Mukwonago Area School District*, No. 23-2568, slip op. (7th Cir. June 12, 2025) [ECF 73-1]. Plaintiff's notice, however, violates Civil L. R. 7(k) because a "Notice of Supplemental Authority may not contain any argument." Defendants, Elkhorn Area School District and Jason Tadlock, ask the Court to disregard the improper argument contained in Plaintiff's notice.

To the extent that the Court considers these arguments, Defendants respond that *D.P.* in no way "fatally undermines" Defendants' arguments in their brief in opposition to Plaintiff's motion for partial summary judgment [ECF 60] and motion to vacate preliminary injunction [ECF 61]. *DP* focused on the school district's procedural argument primarily focusing on the district court's decision to forgo a hearing before issuing the preliminary injunction. [ECF 73-1, p. 2]. While the Seventh Circuit declined to revisit *Whitaker* and *Martinsville*, it did not address or consider most of the arguments raised by Defendants in this case.

The Mukwonago School District simply argued that *Whitaker* and *Martinsville* were wrongly decided or were factually different. The district did not argue, and the Seventh Circuit did not consider, the interplay of the Trump Executive Orders, whether the Executive Orders changed the current state of the law, or the Spending Clause. There was also no argument or consideration of the impact of the federal government's Title IX interpretation and enforcement practices against school districts whose policies align with the terms of the preliminary injunction currently in place with this case. Even though *D.P.* did not overrule prior Seventh Circuit precedent, it does not foreclose Defendants' arguments against summary judgment or for vacating the preliminary injunction.

Dated this 13th Day of June, 2025.

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